

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR.**

S.B. Civil Revision Petition No.90/2007

**M/s. Meko Auto Pvt. Ltd. and Others
Vs.
M/s.Veena Iron Foundry Pvt. Ltd.**

Date of Judgment :: 21st May, 2007

Hon'ble Dr. Vineet Kothari, J.

Mr.Nitin Soni)
Mr.Rajneesh Gupta) for the petitioner.

1. Heard learned counsel for the petitioner.
2. This revision petition is directed against the order dated 7.4.2007 passed by the trial court rejecting the application under Order 7 Rule 11 C.P.C.
3. The defendant-Company raised an objection that the trial court at Dholpur had no jurisdiction as the goods said to have been supplied by the plaintiff having its factory at Dholpur under Bill Nos.9, 12 and 16 were never supplied to the

defendant-Company at Delhi. The suit was filed for claiming money under these bills raised for goods said to have been supplied to the defendant-Company amounting to Rs.7,65,562/-.

4. The trial court found that it was a matter of contract and since part of cause of action arose in Dholpur, the suit was maintainable and accordingly, rejected the application under Order 7 Rule 11 C.P.C.

5. Learned counsel for the petitioner has pointed out that the trial court had already framed the issues after the written statement was filed by the defendant-Company and issue No.4 pertain to jurisdiction.

6. Since the trial court has already framed a question relating to jurisdiction, the rejection of application under Order 7 Rule 11 C.P.C. on the ground that prima facie the trial court had jurisdiction as part of cause of action arose in Dholpur from where the goods are claimed to have been sent. It is a mixed question, which would require evidence. The trial court cannot be faulted and this cannot be said to have decided issue No.4

itself. The issue relating to supply of goods under the contract is a question of fact, which could be decided only after evidence. Therefore, rejection of application under Order 7 Rule 11 was justified.

7. In view of this, there is no force in this revision petition and accordingly, the same is dismissed. However, the trial court is expected to decide issue No.4 as to jurisdiction as a preliminary issue in accordance with law.

[Dr. Vineet Kothari],J.

**S.S.
Jr.P.A.**

18.5.2007

To,

The Manager Gr.-I
Rajasthan House,
7, Prithvi Raj Road,
New Delhi – 110011.

Ref:Your letter No.637 dt.10.05.2007

Dear Sir,

With reference to the aforesaid letter giving reference of Bill No.51142 dated 8.2.2007 for a sum of Rs.6,358/- and reference to your earlier letters No.183 dated 8.2.2007, No.332 dated 10.3.2007 and No.462 dated 6.4.2007, this is to inform you that none of the aforesaid three letters, nor even the Bill No.51142 dated 8.2.2007 has ever been received by the undersigned from Rajasthan House.

Therefore, you are requested to kindly send the copy of the aforesaid bill as well as copies of the aforesaid three letters immediately by return of post so that payment of the aforesaid Bill may be made. The delay has occurred on account of non-receipt of the Bill as well as above referred three letters so far.

Thanking you,

Yours faithfully,

(Dr.VINEET KOTHARI)